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August 24, 2017

**Via CM/ECF**

Honorable Judge Kevin McNulty  
United States District Court, District of New Jersey  
Martin Luther King, Jr. Federal Building and U.S. Courthouse  
50 Walnut Street, Room PO 04  
Newark, New Jersey 07101

**RE: Progressive Spine & Orthopaedics, LLC v. Anthem Blue Cross Blue Shield**  
**Docket No.: 2:17-cv-00536-KM-MAH / Our File No.: 394-15**

Dear Judge McNulty:

I represent the Plaintiff, Progressive Spine & Orthopaedics, LLC. I am writing in regard to the pending motion to remand, to inform you that one of the cases discussed in the motion papers has since been overruled.

Defendant Anthem relied on *McCulloch Orthopaedic Surgical Servs., PLLC v. Aetna U.S. Healthcare*, 15-CV-2007, 2015 WL 2183900 (S.D.N.Y. May 11, 2015) in its opposition brief. That decision has since been overruled. 857 F.3d 141 (2d Cir. 2017). Additionally, the new decision offered valuable clarification as to another case Anthem relied upon, *Montefiore Med. Ctr. v. Teamsters Local 272*, 642 F.3d 321 (2d Cir. 2011).

Thank you for your time and attention to this matter.

**SCHILLER McMAHON LLC**

By: /s/ Jordan B. Dascal  
Jordan B. Dascal

cc: Amanda L. Genovese, Esq. (via cm/ecf)